

EXHIBIT 28

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:

BERNARD L MADOFF	Adv. Pro. No.
INVESTMENT SECURITIES LLC,	08-01789 (BRL)
Debtor.	

IRVING H. PICARD, Trustee
for the Liquidation of
Bernard L. Madoff Investment
Securities LLC,

Plaintiff,

Adv. Pro. No.
09-1182 (BRL)

V.

J. EZRA MERKIN, GABRIEL CAPITAL,
L.P., ARIEL FUND LTD., ASCOT
PARTNERS, L.P., GABRIEL CAPITAL
CORPORATION,

Defendants.

October 10, 2012
10:07 a.m.

VIDEOTAPED DEPOSITION of ROBERT CASTRO, a 30(b)(6) witness and individually, taken by Plaintiffs, pursuant to Subpoenas, held at the offices of Edwards Wildman Palmer, LLC, 750 Lexington Avenue, New York, New York, before Eileen Mulvenna, CSR/RMR/CRR, Certified Shorthand Reporter, Registered Merit Reporter, Certified Realtime Reporter and Notary Public of the State of New York.

1 A. A hundred or so a year.

2 Q. Now, did BDO USA conduct audits of
3 any of the defendants during the time period of
4 2002 to 2008?

5 A. I believe it did.

6 Q. Do you recall which ones?

7 A. I believe all of those except for
8 Ezra personally. We did audits on Ariel,
9 Gabriel, and Ascot.

10 Q. Generally speaking, what is the size
11 of the audit team involved in an audit of a hedge
12 fund?

13 A. In a hedge fund?

14 Q. When BDO USA audits a hedge fund,
15 how many people does it use in order to conduct
16 that audit?

17 A. Usually one per fund. One per fund
18 or one for a group of funds.

19 Q. And that one person actually
20 conducts the audit; correct?

21 A. Let me clarify. There's a team,
22 which consists of a senior, either a manager or
23 senior manager, and a partner. I'm talking
24 about -- when I'm talking about execution, I'm
25 talking about fieldwork. I'm talking about

1 senior level.

2 Q. So can you tell me who else -- who
3 is on the audit team? Who would make up the
4 audit team?

5 A. For those funds?

6 Q. Just a typical engagement.

7 A. It would be a senior; a manager or a
8 senior manager, sometimes both, depending; and a
9 partner.

10 Q. Does the size of an audit team vary
11 from fund to fund?

12 A. Generally not.

13 Q. Are there any circumstances in which
14 you would have a bigger team?

15 A. Yes, if there were 40 funds, you
16 might have 40 different people doing the fund
17 each, depending on the infrastructure of the
18 client. But generally the infrastructure of the
19 companies wouldn't support that.

20 Q. What is the role of a senior on an
21 audit team?

22 A. Day-to-day execution of the audit.

23 Q. What is the role of the senior
24 manager?

25 A. Senior manager or manager would be

1 day-to-day supervision of the senior and overall
2 execution of the audit plan.

3 Q. You mentioned fieldwork earlier.
4 What does fieldwork mean?

5 A. That's when the senior is actually
6 in the field gathering evidence to support the
7 opinion.

8 Q. By "in the field," do you mean at
9 the client site?

10 A. Generally, yes. Yes.

11 Q. What is the first thing that a --
12 that the audit team does in a typical audit of a
13 hedge fund?

14 A. I'm not so sure -- I don't
15 understand the question.

16 Q. How does an engagement begin?

17 A. The first thing that would occur is
18 the manager and/or senior would look at the
19 current financial position of the company and
20 from that lay out an audit plan.

21 Q. Once they've laid out an audit plan,
22 what do they do next?

23 A. It would be reviewed and approved by
24 the -- assuming the senior laid it out, it would
25 be reviewed and approved by the manager,

1 that's being referenced here?

2 A. I don't know offhand, but either
3 Ezra or an Ezra-controlled entity.

4 Q. By "Ezra" you mean Mr. Merkin?

5 A. I do.

6 Q. Why do you have a statement in this
7 letter that says that the financial records and
8 financial statements are the responsibility of
9 Mr. Merkin?

10 A. Because --

11 MR. STEINER: Objection to form.

12 THE WITNESS: Because that's the
13 literature and that's what's required.
14 They're the ones who take ownership of it.
15 It has to be their responsibility.

16 BY MR. SONG:

17 Q. The next sentence says, "In that
18 regard, management is responsible for
19 establishing and maintaining effective internal
20 control over financial reporting, establishing
21 and maintaining proper accounting records,
22 selecting appropriate accounting principles,
23 safeguarding partnership assets, and complying
24 with relevant laws and regulations."

25 Did I read that correctly?

1 A. You did.

2 Q. What does that sentence mean?

3 A. Again, it's a basic tenet under GAAS
4 and GAAP that the financial statements are the
5 company's responsibilities, and safeguarding and
6 recording of the books is the company's
7 responsibilities.

8 Q. Just so the record is clear, what is
9 GAAS and GAAP?

10 A. GAAP is generally accept accounting
11 principles. And GAAS is general accepted
12 auditing standards.

13 Q. Do you see in the next paragraph it
14 says, "Our responsibility is to express an
15 opinion on the financial statements based on our
16 audit. An audit includes examining on a test
17 basis evidence supporting the amounts and
18 disclosures in the financial statements,
19 assessing the accounting principles used and
20 significant estimates made by management, and
21 evaluating the overall financial statement
22 presentation"?

23 Did I read that correctly?

24 MR. GREENBERG: You don't have to
25 ask him if you read it correctly. Somebody

1 fraud that would have a material effect on the
2 financial statements"?

3 A. Yes.

4 Q. What type of fraud are you looking
5 for?

6 A. I'm not sure I understand the
7 question.

8 Q. How do you design an audit to -- how
9 do you design your audit to detect errors or
10 fraud?

11 A. Again, it's a matter of how you
12 sample the population and then what procedures
13 you undertake to examine the documentation.

14 Q. Is your audit designed to detect
15 errors or fraud committed by people at Gabriel
16 Capital?

17 A. It's designed to protect -- to
18 detect fraud committed at the entity level, yes.

19 Q. Is your audit designed to detect
20 errors or fraud that's committed outside of
21 Gabriel Capital?

22 A. No.

23 Q. Why not?

24 A. A GAAS audit is a set of
25 commercially -- commercially reasonable

1 procedures necessary to form an opinion. There
2 are different types of audits, for instance. A
3 fraud audit, where you're actively looking for
4 fraud, but then you would still be looking within
5 the entity. We have no ability to go outside the
6 entity, to start auditing other entities for
7 which it does business with. If that were the
8 case, I'd still be working on the first audit I
9 started out of college.

10 Q. What do you mean by that?

11 A. It's never ending. I can go to --
12 assuming I could even get into an entity doing
13 business with this entity, it can take years to
14 unravel their financials. And I'd have to look
15 at their customers to make sure that their
16 customers can pay and so on and so forth. And
17 after you're done with that, you've audited the
18 whole world.

19 Q. Is the difference between a GAAS
20 audit and a fraud audit, as you just described,
21 described anywhere in the engagement letter?

22 A. No, but it does say we're going to
23 perform the audit under the generally accepted
24 auditing standards in the US.

25 Q. You see on the -- approximately

1 trade date statements were available from
2 Mr. Madoff?

3 A. I think they were. They usually
4 are.

5 Q. Under number 2, the third bullet,
6 you see where it says, "Perform a price test of
7 securities"? It's the second sentence in the
8 third bullet.

9 A. Yes.

10 Q. What does that mean?

11 A. We would take the positions and
12 independently test them to Bloomberg or some
13 other source for the pricing.

14 (Discussion off the record.)

15 Q. Why did you use an independent
16 source?

17 A. It's best practices.

18 Q. What were you looking for when you
19 conducted these tests?

20 A. That the valuation agreed with the
21 valuation as recorded in the company's books and
22 records.

23 Q. Was this test for the
24 end-of-the-year balance?

25 A. Yes.

1 Q. Did you test the price of securities
2 on a day-to-day basis from the brokerage
3 statements?

4 A. To the extent that they appeared in
5 another account where we would need to do that,
6 then the answer would be yes.

7 Q. Can you explain to me what that
8 means?

9 A. Sure. If you are testing realized
10 gains and a position was unwound or sold
11 somewhere during the year, you would trace back
12 to the market price at that date.

13 Q. Would there be any other occasions
14 in which you test the market price on a specific
15 date?

16 A. Not likely.

17 Q. The next bullet says, "Trace and
18 agree the selected positions within the scope to
19 broker statements to verify existence."

20 A. Right.

21 Q. What does that mean?

22 A. The auditor takes the company's
23 books and records and traces to the independent
24 confirmation to see that the amount and
25 quantities agree.

1 or Ascot?

2 A. It was trading on behalf of the
3 company.

4 Q. How do you have that understanding?

5 A. From doing the audits, from the
6 account agreements.

7 Q. From your previous answer when
8 you're referring to "the company," you mean
9 Gabriel Capital and Ascot Partners?

10 A. Correct.

11 Q. Do you have the same understanding
12 for Ascot Fund and Ariel?

13 A. For the entire group, yes.

14 Q. Do you have an understanding of what
15 Mr. Madoff's trading strategy was on behalf of
16 defendant funds?

17 A. Yes. At the time I did, yes.

18 Q. What is your understanding?

19 A. That he was long/short trader
20 trading options and stocks.

21 Q. How did you gain that understanding?

22 A. From actually seeing a portfolio as
23 well as the account agreements.

24 Q. As part of the audit of Gabriel and
25 Ascot Partners, did BDO check to see if the

1 trading strategy -- I should say the purported
2 trading strategy of Mr. Madoff was consistent
3 with Mr. Merkin's investment strategy?

4 A. Yes.

5 Q. How did you do that?

6 A. By looking at the COM.

7 Q. What is a COM?

8 A. Confidential offering memorandum,
9 sometimes called a private placement memo.

10 Q. What confidential offering
11 memorandums did you review?

12 A. Whatever -- whatever document was
13 out there that he used to -- to provide his
14 partners when they came on board.

15 Q. Did you review the confidential
16 offering memorandums every year?

17 A. To the extent they were amended,
18 yes.

19 Q. Did you review the confidential
20 offering memorandums for each of the four funds?

21 A. To the extent -- yes.

22 Q. And that's Gabriel, Ariel, Ascot
23 Partners, and Ascot Fund?

24 A. That's correct.

25 Q. Did BDO draw any conclusions from

1 its review of any confidential offering
2 memorandum and its analysis -- withdrawn.

3 Did BDO have any understanding as to
4 what -- as to whether or not the investment
5 strategy as outlined in the confidential offering
6 memorandums was consistent with Mr. Madoff's
7 purported investment strategy?

8 A. The -- we simply looked for whether
9 the strategy would be in violation of that
10 memorandum, and it was not.

11 Q. How did you determine that?

12 A. By reading what they were allowed to
13 invest in and comparing to what they did invest
14 in.

15 Q. Did you do anything else to evaluate
16 Mr. Madoff's purported investment strategy?

17 A. No.

18 Q. Are there any requirements under
19 GAAS or GAAP that required you to do any
20 additional evaluation of Mr. Madoff's investment
21 strategy?

22 A. No.

23 Q. Do you recall earlier this morning I
24 asked you what the general steps were for an
25 audit -- for BDO when they conducted a hedge fund

1 audit?

2 A. Yes.

3 Q. Did BDO follow that process in its
4 audits of Gabriel and Ascot?

5 A. Yes.

6 Q. As part of BDO's audit of Gabriel
7 and Ascot, did the audit review team -- sorry --
8 did the audit team review account statements that
9 it received from Madoff Securities?

10 A. Yes.

11 Q. Did BDO's audit team also receive
12 any trade confirmations?

13 A. BDO's audit team would not likely
14 receive trade confirmations.

15 Q. Did BDO's audit team review any
16 trade confirmations from Madoff Securities?

17 A. Probably.

18 Q. How do you know that?

19 A. How do I know probably?

20 Q. Yes.

21 A. Because they would have tested
22 realized gains and losses and, in doing that,
23 they probably traced to a confirmation on a trade
24 for pricing and quantity.

25 Q. So would BDO's audit team have

1 reviewed a selection of trade confirmations?

2 A. That's correct.

3 Q. And BDO would not have reviewed
4 every trade confirmation for Ascot or Gabriel --
5 Ascot Partners or Gabriel from Madoff Securities?

6 A. No more than a handful on each
7 engagement.

8 Q. How did -- how did BDO USA receive
9 documents related to the Madoff Securities
10 accounts?

11 A. I received documents pursuant to its
12 confirmation request. I received the year-end
13 statements and the other documents that were
14 received from the company.

15 Q. Did the funds themselves request
16 that Madoff Securities send to you, BDO USA, the
17 account statements that we've been talking about?

18 A. I'm sorry, repeat the question.

19 Q. Did the funds themselves, meaning
20 did Ariel -- sorry, did Gabriel and Ascot
21 directly request from Madoff Securities that
22 Madoff Securities send to you, BDO USA, the
23 account statements that we're talking about?

24 MR. STEINER: Objection to form.

25 THE WITNESS: Funds would sign a

PICARD v. MERKIN

ROBERT CASTRO 10/10/12

116

1 Q. Did BDO conduct any testing to
2 confirm that the trades reported on the trade
3 confirmations from Madoff Securities actually
4 occurred?

5 A. Repeat that. I'm sorry.

6 Q. Sure.

7 Did BDO conduct any testing to
8 confirm that the trades reported on the trade
9 confirmations from Madoff Securities actually
10 occurred?

11 A. I don't understand that question.

12 Q. Was there any testing that BDO
13 conducted on the trade tickets it reviewed in
14 connection with its audits of Gabriel and Ascot
15 Partners investments with Madoff Securities to
16 determine whether or not the trades actually
17 occurred?

18 MR. STEINER: Objection to form.

19 THE WITNESS: Other than inspecting
20 the trade certificate -- trade ticket and
21 tying it back to the brokerage statement,
22 there's nothing else that could be done.

23 BY MR. SONG:

24 Q. What is your understanding of what a
25 trade ticket is?

1 A. It's the particulars of what was
2 traded, the date it was traded, the amount it was
3 trade, the price it was traded at.

4 Q. Do you know if that's also referred
5 to as trade confirmation?

6 A. It could be, yes.

7 Q. How did you select the transactions
8 that you would test?

9 A. The work papers would be clear to
10 that, but there would be some sort of random
11 sample.

12 Q. Did BDO ever conduct any examination
13 of the reported trading volumes associated with
14 the trades at Madoff Securities as part of your
15 audit?

16 A. No.

17 Q. Why not?

18 A. We'd have no reason to.

19 Q. Is there any requirement under GAAS
20 or GAAP to look at trade volumes?

21 A. No.

22 Q. If you were told that Madoff
23 Securities was actually an investment adviser to
24 the four defendant funds, would have changed the
25 process you used to audit the funds' investments?

1 MR. GREENBERG: I don't mean to make
2 things difficult, but the question seemed
3 ambiguous to me.

4 BY MR. SONG:

5 Q. Prior to December 2008, did you have
6 an understanding as to who the auditor was for
7 Madoff Securities?

8 A. I likely -- I probably knew who it
9 was, sure.

10 Q. And how did you get that
11 understanding?

12 A. We would normally ask for internal
13 control letters. So from that basis, we would
14 know who the auditor was; but we're not really
15 taking note whether it's Eisner, BDO or
16 Friehling & Horowitz.

17 Q. Why wouldn't you take note of the
18 identity of the auditor?

19 A. Because it wasn't the relevant
20 purpose of getting the internal control letter.

21 MR. SONG: Give me 20.

22 (Trustee's Exhibit 40, Bates Nos.
23 BDO_T_0003891 through 93, Bernard L. Madoff
24 Independent Auditor's Report Year Ended
25 October 31, 2006, marked for

1 Q. Why did you have Mr. Autera request
2 this internal control report?

3 A. As a standard audit procedure in
4 every hedge fund, we requested the
5 broker/dealer's internal control report.

6 Q. What's the purpose of this internal
7 control report?

8 A. Just to make sure that they're not
9 reporting any internal control problems.

10 Q. Did BDO take any steps to
11 investigate the authenticity of this internal
12 control report?

13 A. No.

14 Q. Did BDO take any steps to verify
15 whether or not the internal control report issued
16 by Friehling & Horowitz is accurate?

17 A. No.

18 Q. Why not?

19 A. Firstly, we couldn't possibly do
20 that because to do that, we'd have to do the
21 audit of Madoff ourselves.

22 Q. Anything else?

23 A. There was no GAAS requirement to do
24 that. There's not a GAAS requirement to even get
25 this document.

1 Q. If there's no GAAS requirement to
2 get the document, why did BDO request it?

3 A. Because you can't get --
4 broker/dealers do not -- prior to recent, did not
5 do SAS 70 reports, with the sole exception of
6 Goldman Sachs did one for a couple of years. So
7 in lieu of that, we would ask for the internal
8 control reports.

9 Q. In connection with the audits for
10 Ascot and Gabriel, did you request internal
11 control reports from any other financial
12 institutions?

13 A. Any financial institution, any
14 broker/dealer they dealt with we would have asked
15 for.

16 Q. Was the identity of the auditors
17 for -- was the identity of the auditor who
18 drafted the internal control report of any
19 significance to BDO's audit?

20 MR. STEINER: Objection to form.

21 THE WITNESS: No.

22 BY MR. SONG:

23 Q. Why not?

24 A. Because we weren't relying on the
25 auditor for anything.

1 Q. What do you mean by the statement
2 that you weren't relying on the auditor for
3 anything?

4 A. We didn't use his report in
5 determining -- to the extent or the timing or the
6 nature of our substantive tests.

7 Q. Did you ever recall a time in which
8 BDO ever scrutinized an auditor of a hedge fund
9 client's broker/dealer or investment adviser?

10 MR. GREENBERG: I'm having trouble
11 hearing with the noise outside. Can you
12 try that again.

13 BY MR. SONG:

14 Q. Do you ever recall a time in which
15 BDO ever scrutinized an auditor of a hedge fund
16 client's broker/dealer or investment adviser?

17 MR. GREENBERG: Objection to form.

18 THE WITNESS: No.

19 (Discussion off the record.)

20 BY MR. SONG:

21 Q. Did BDO USA have any oversight over
22 BDO Tortuga's audits into Ariel or Ascot Fund?

23 A. No.

24 Q. Do you know if BDO Tortuga conducted
25 testing similar to that of BDO USA on the Madoff

1 funds, it would take approximately four to six
2 weeks to complete an audit?

3 A. Yes.

4 Q. Do you recall how much BDO charged
5 the defendant funds to conduct the audit?

6 A. 50, 60 grand a fund.

7 Q. Was that consistent throughout the
8 time period in which you were the engagement
9 partner?

10 A. Yes, I would say so.

11 Q. And did that price compare -- how
12 did that price compare to other funds of similar
13 size and complexity?

14 A. Almost every fund we did we're at
15 our standard rates. The hours would be
16 approximately the same. They would be in the
17 same price range.

18 (Discussion held off the record.)

19 Q. During the four to six weeks in
20 which the audit process was taking place, can you
21 estimate how much time was spent examining the
22 records from Madoff Securities?

23 A. When you say "records" --

24 Q. I mean the account statements or
25 trade tickets that you were talking about

1 earlier.

2 A. It would be difficult to say, but it
3 wouldn't be more than a couple of days, if that
4 much. That's depending on how many positions
5 there are.

6 Q. What do you mean, "how many
7 positions there are"?

8 A. Let's take an example. Let's say I
9 have a billion-dollar fund. And I get the
10 statement from Morgan Stanley or broker -- or
11 Madoff, and that billion dollars is in a stock
12 called IBM, one position, it wouldn't take more
13 than five minutes to deal with that.

14 If I have a hundred-thousand-dollar
15 fund and a hundred different positions, that's a
16 whole different ball game. So when I say you
17 have to look at the size and complexity, those
18 are the things you're looking at.

19 In most cases, it's probably not
20 more than a day or two, at the most complex
21 sense, just tying it in and then price testing
22 it.

23 Q. During your time at BDO USA, are you
24 aware of any policies or procedures that BDO had
25 in place that would preclude an employee from

1 services?

2 A. We provide due diligence reports,
3 yes.

4 Q. Do you know what those due diligence
5 reports consist of?

6 A. They are usually fact-intensive. So
7 it would depend on what you're looking at and
8 what procedures you agree to do with the company
9 itself.

10 Q. For example, do they examine a
11 particular money manager?

12 A. Who's "they"?

13 Q. Well, that's a good question.

14 Who provides these due diligence
15 services at BDO USA?

16 A. Well, they could be done by anybody
17 with the proper skill-sets. So I could tell you
18 that that would be our group. And to my
19 knowledge, we have never provided due diligence
20 services or investigated the reputation of an
21 investment adviser or an underwriter or a
22 broker/dealer or any other entity including
23 investments at our client's request or anybody
24 else's.

25 MR. SONG: Can you give me 22.

1 those procedures to verify the accuracy, the
2 valuation and existence of the assets. You can
3 call it what you want, but it's an audit
4 procedure.

5 Q. Do you consider any difference
6 between an audit procedure and due diligence on
7 hedge funds?

8 A. Again, "due diligence" is a term of
9 art. It doesn't have any prescribed
10 methodologies. They differ from firm to firm,
11 people to people and are generally agreed upon
12 between the auditor or the provider of service
13 and the company as to what procedures are deemed
14 adequate for them under the circumstances for due
15 diligence. And that's why those reports are so
16 different from an audit report which is in
17 accordance with GAAS.

18 Q. Did you consider -- do you consider
19 the testing and other analysis that you did on
20 the account documents related to Madoff
21 Securities to be due diligence?

22 MR. STEINER: Objection to form.

23 THE WITNESS: Due diligence of
24 Madoff?
25

1 BY MR. SONG:

2 Q. Of Madoff.

3 A. Oh, no.

4 Q. So the prior testimony you gave
5 regarding due diligence, that is with respect
6 to --

7 A. The financial statements of the
8 company.

9 Q. In this case Gabriel or Ascot?

10 A. Correct.

11 MR. STEINER: Object to the form.

12 MR. SONG: Why don't we go ahead and
13 go off the record.

14 THE VIDEOGRAPHER: Going off the
15 record. The time is 2:18. This ends Tape
16 No. 3.

17 (Recess from the record.)

18 THE VIDEOGRAPHER: We are back on
19 the record. The time is 2:25. This is
20 Tape No. 4.

21 BY MR. SONG:

22 Q. Mr. Castro, do you know what the
23 Sharpe ratio is?

24 A. I have heard of it, yes.

25 Q. What is your understanding of the

1 A. That's correct.

2 Q. And part of BDO's audit process
3 was -- would be to confirm the year-end balances
4 in those accounts; right?

5 A. That's correct.

6 Q. And to do that, BDO would request
7 written confirmations of those balances be sent
8 directly to BDO from Madoff Securities; right?

9 A. Correct.

10 Q. And each year, BDO received such
11 confirmations directly from Madoff Securities?

12 A. I believe so, yes.

13 Q. And BDO relied on Madoff Securities'
14 confirmations of the account balances?

15 A. For the existence, yes.

16 Q. And why did BDO rely on those
17 written confirmations?

18 A. Because there's no higher audit
19 procedure than to confirm with a third party, and
20 especially since he was -- he was a regulated
21 entity holding those assets.

22 Q. And the fact that he was
23 regulated -- that Madoff Securities was an
24 SEC-regulated broker/dealer was a significant
25 fact in BDO's reliance on statements and

1 BY MR. STEINER:

2 Q. Sure.

3 BDO was aware that the independent
4 auditor's statement of internal controls on
5 Madoff Securities were issued by Friehling &
6 Horowitz; right?

7 A. I would doubt highly if you asked
8 anybody a week later who the auditor of Morgan
9 Stanley or Madoff were. So the question of
10 awareness, at the time that they looked at that
11 piece of evidence, they were aware, yes.

12 Q. And those statements of internal
13 controls would be maintained within BDO's work
14 papers?

15 A. If we received them, yes.

16 Q. And if during the course of the
17 audit, you suspected or were in any way concerned
18 that Madoff Securities was operating a massive
19 fraud or a Ponzi scheme, you would have
20 investigated that circumstance; right?

21 A. If we believed that were the case,
22 yes.

23 Q. And you would have brought it to the
24 attention of Mr. Merkin or others at Gabriel
25 Capital Corporation?

1 BY MR. SONG:

2 Q. When you were examining the prices
3 for the trade -- for trades conducted by Madoff
4 Securities, did you test to see how often those
5 trades occurred at the highs or the lows of the
6 reported day?

7 A. No.

8 Q. Do you remember Mr. Steiner asked
9 you whether or not investors in Merkin's funds
10 could take comfort in the audits performed by
11 BDO?

12 A. Yes.

13 Q. Does that comfort extend to the
14 assets placed by the funds with Madoff
15 Securities?

16 MR. STEINER: Objection to form.

17 THE WITNESS: Can you repeat that
18 again, please.

19 BY MR. SONG:

20 Q. Sure.

21 Should investors take comfort in
22 BDO's audit of Merkin's -- of the funds
23 associated with Mr. Merkin in connection with the
24 assets that were placed with Madoff Securities?

25 MR. GREENBERG: Note my objection to

1 that also.

2 But go ahead and answer it.

3 MR. STEINER: Objection.

4 THE WITNESS: Firstly, I think we
5 said that they might take comfort, not they
6 could take comfort. That's something they
7 have to decide, whether to take comfort in
8 our financial statements as part of the due
9 diligence or even if they use our financial
10 statements as part of the due diligence.
11 But certainly anything that we are talking
12 about at the entity level does not extend
13 to outside the entity.

14 MR. SONG: Okay. That's it. No
15 further questions.

16 MR. GREENBERG: Anyone else?

17 As I previously said, we'll -- we
18 will read and sign.

19 MR. SONG: That's fine.

20 MR. GREENBERG: Thank you.

21 MR. SONG: Thank you.

22 THE VIDEOGRAPHER: Going off the
23 record. The time is 3:16.

24 (Examination concluded.)

25